

**REVISED LEGISLATIVE DIGEST**  
(Amended in Committee: 7/25/2011)

[Planning Code - Amending Inclusionary Housing Ordinance to Add New Alternative in Market and Octavia Plan Area]

**Ordinance amending Planning Code Section 415.5 to provide for a new land dedication alternative in the Market and Octavia Plan Area in lieu of payment of the Affordable Housing Fee; and adding Section 415.10 to provide for the requirements of such land dedication; making findings including environmental findings and findings of consistency with the Priority Policies and the General Plan.**

Existing Law

The Inclusionary Affordable Housing Program, Planning Code Sections 415 and following provides that a developer of market rate rental housing must pay an Affordable Housing Fee or, if it is eligible, meet the requirement by building affordable units on- or off-site. Projects in the Eastern Neighborhoods Area may, in some circumstances, meet the Affordable Housing requirement through the dedication of land to the City for the purpose of constructing affordable housing. This alternative is currently limited to projects in the Eastern Neighborhoods.

Amendments to Current Law

The proposed amendment provides that projects located in the Market and Octavia Area may now also be eligible to apply for a land dedication alternative in lieu of or in combination with payment of the Affordable Housing Fee. The project application must receive approval in writing from the Mayor's Office of Housing (MOH). The dedicated land may be on- or off- the principal site, but must equal 40% of the total developable area of the principal site and must convey title to land in fee simple absolute to MOH. In addition, the Mayor's Office of Housing shall determine:

- Both the principal project and the dedicated site are within the Market and Octavia Area, with certain limited exceptions.
- The dedicated site provides the zoning capacity to develop 40% of the number of units entitled on the principal site and does not involve unusual construction costs due to the site conditions. ~~will result in a total amount of inclusionary units that is~~ equivalent or greater than the minimum percentage of the units that would have been required on the principal site under the On-site Alternative.
- The dedicated site is suitable from the perspective of size, configuration, physical characteristics, physical and environmental constraints, access, location, adjacent use,

and other relevant planning criteria. The site must allow development of affordable housing that is sound, safe and acceptable.

- The dedicated site includes infrastructure necessary to serve the affordable units, including sewer, utilities, water, light, street access and sidewalks.
- The developer has submitted full environmental clearance for the dedicated site before the land can be considered for conveyance, and before a first site or building permit may be conferred upon the principal project.
- The project applicant has a letter from MOH verifying acceptance of site before it receives project approvals from the Planning Commission or Planning Department, which shall be used to verify dedication as a condition of approval.
- The Land Dedication Alternative may be satisfied through the dedication to the City of air space above or adjacent to the project, upon the approval of MOH, or a successor entity, and provided the other requirements of this Section 415.10 are otherwise satisfied.

The legislation provides for an approval process of the Land Dedication Agreement. The Mayor's Office of Housing must determine, in consultation with the public, the Market and Octavia Community Advisory Council, and other interested parties, that the proposed land dedication meets the specified criteria. The Mayor's Office of Housing shall refer the Agreement to the Planning Commission and the Commission may approve or disapprove the Agreement, but may not modify it. Project sponsors that pursue a Land Dedication Agreement shall reimburse the City for time and materials incurred by the City in negotiating, drafting and monitoring compliance with the Agreement.

If the legislation is approved, projects approved on or after July 4, 2010 may apply for this Alternative under certain circumstances.